

VZCZCXRO0508
PP RUEHBC RUEHDE RUEHKUK RUEHROV RUEHTRO
DE RUEHLB #0410/01 0801319
ZNY CCCCC ZZH
P 201319Z MAR 08
FM AMEMBASSY BEIRUT
TO RUEHC/SECSTATE WASHDC PRIORITY 1343
INFO RUEHEE/ARAB LEAGUE COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RUCNDT/USMISSION USUN NEW YORK 2057
RUEHNO/USMISSION USNATO 2328
RHMFISS/CDR USCENCOM MACDILL AFB FL
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 BEIRUT 000410

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E.O. 12958: DECL: 03/19/2018
TAGS: [PGOV](#) [PINR](#) [PREL](#) [PTER](#) [SY](#) [FR](#) [LE](#)
SUBJECT: LEBANON: JUSTICE MINISTER PROPOSES DUAL-HATTING
FORMULA FOR SPECIAL TRIBUNAL

REF: A. BEIRUT 350
[1](#)B. USUN NEW YORK 253

Classified By: Charge d'Affaires a.i. Michele J. Sison for reasons 1.4
(b) and (d).

SUMMARY

[1](#)1. (C) Justice Minister Charles Rizk appealed to the Charge on March 19 to not extend the UNIIIC mandate, set to expire June 15 absent action by the Security Council. He expressed his alarm at what he suspects are preparations by UNIIIC Commissioner and Prosecutor-designate Daniel Bellemare to ask for an extension of the mandate to at least the end of 2008. Rizk argued that an extension will send the message that UNIIIC does not have a case to prosecute suspects in the Hariri assassination, which will prompt "rejoicing in the streets by Hizballah and Syria."

[1](#)2. (C) However, recognizing the benefits of a UNIIIC extension, notably the ability to use Chapter VII authority to force cooperation from third parties, Rizk proposed a legal framework under which Bellemare is dual-hatted as the Commissioner and Prosecutor. This formula will provide Bellemare the advantages of an extension while addressing what is foremost in Rizk's mind -- communicating to Syria that the Special Tribunal, which he deems Lebanon's "biggest stick," is on a forward-moving trajectory. End summary.

[1](#)3. (C) Justice Minister Charles Rizk requested a meeting with the Charge, accompanied by PolOff, on the evening of March 19, one day before he planned to meet for the first time with UNIIIC Commissioner and Prosecutor-designate Daniel Bellemare.

ANY DELAY SENDS A DANGEROUS MESSAGE

[1](#)4. (C) A recent conversation with French Charge Andre Parant had alarmed him, said Rizk. Parant had apparently relayed to Rizk Bellemare's trip to Paris, where Bellemare reportedly told interlocutors at the Quai d'Orsay that he does not have much evidence and that he is preparing to ask for an extension of UNIIIC's mandate until at least the end of 2008. Rizk is alarmed for two reasons: first, that Syria will interpret a delay to mean it will ultimately be cleared of suspicion; and second, that there may be a lack of evidence to make indictments.

15. (C) "An extension will be seen as a lack of evidence," Rizk stated plainly, "and Hizballah and Syria will rejoice in the streets." Referring to UN SYG Ban Ki Moon's report this month to the Security Council on the Special Tribunal's status which gave him the impression that UNIIIC was progressing smoothly, Rizk said asking for an extension gives the exact opposite impression. "We have to be very careful with perceptions," he cautioned. He cited another example of a mixed message: a March 18 televised interview with former UNIIIC head Detlev Mehlis, during which Mehlis implied progress was being made.

16. (C) At the same time, Rizk said he privately hears that there is no case, referring to a recent conversation Lebanese Judge Saïd Mirza had with Bellemare, during which Bellemare purportedly told him he did not have a case. Rizk relayed that in the Mehlis interview, he suggested the explosives killing former Prime Minister Rafiq Hariri were planted underneath, in the street, whereas previous UNIIIC Commissioner Serge Brammertz offered the theory that the explosives were inside the car. A frustrated Rizk said that if we did not know where the blast came from after three years, we are in trouble. Another six months will not shed new light, he added.

17. (C) At the prospect of no evidence, Rizk was irate and questioned what Brammertz had accomplished during his time. He also was upset at the lack of communication between UNIIIC and the Ministry of Justice, noting that he would be meeting Bellemare for the first time the following day, after repeated attempts made by Rizk to schedule something. Rizk pointed out that UNIIIC is intended to assist Lebanese efforts, and therefore Bellemare should have informed Rizk of

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his concerns about evidence and timeline. In a fit of fury, Rizk said that Bellemare's isolation due to security concerns (ref A) prevented him from recognizing the Tribunal for what it is, "a pillar of Lebanese society."

PROPOSING DUAL-HAT BELLEMARE

18. (C) Rizk identified the advantages an extension would bring Bellemare. First, the separate budgets for UNIIIC and the Special Tribunal would mean that they would not yet have to start drawing down on the Tribunal's funding. More importantly, UNIIIC's Chapter VII mandate means that UNIIIC has more time to compel third party cooperation, a factor absent once the Special Tribunal commences.

19. (C) To manage the perception issue yet take advantage of UNIIIC's strengths, Rizk proposed a legal framework, drawn up by Judges Choukri Sadr and Raouf Riachy, under which the Special Tribunal commences and Bellemare becomes the Prosecutor, and at the same time UNIIIC's mandate is extended beyond its June 15 expiration. To name Bellemare as the Prosecutor demonstrates to Syria and the international community that the Tribunal is moving forward, he argued. In this dual-hat scenario (ref B), Bellemare continues on as Commissioner, which would enable him to continue investigating the 20 other attacks that have occurred since Hariri's assassination. Explaining that it is most important to manage perceptions, Rizk acknowledged that it would take time for the Tribunal to kick off, a less important issue as long as the perception of motion is promulgated.

110. (C) Rizk requested that the U.S. pressure the UN SYG to adopt the dual-hat proposal. He detailed the advantages of a dual-hat scenario at length, and reasoned that the Tribunal cannot be delayed. In addition to the dangerous messages he laid out, Rizk added that a delay will also be interpreted to mean a deal is being cooked between Syria and the U.S. Acknowledging the need to manage expectations, Rizk said that expectations should not be minimized. He also raised the issue of the four detained judges, jailed since 2005 for

alleged involvement in the Hariri assassination, saying that the mounting pressure against Judge Saiid Mirza meant that he could not detain them for another six months. Once free, Rizk speculated, "The judges would go straight to Damascus and raise hell."

PROPOSED LEGAL FRAMEWORK

There follows Embassy's informal translation of the French-language "Proposed Legal Framework" drafted by Judges Sadr and Riachy (Begin text).

¶11. (C) "Concerning the extension of UNIIIC's mandate, we propose the following formula that extends this mandate while not slowing down the launching of the Tribunal, in accordance with the last report of the SYG.

¶1. Nomination by the SYG of Mr. Bellemare as Prosecutor of the Tribunal while also ensuring the timely launch of the Tribunal.

¶2. Extension of UNIIIC's mandate to continue under the current terms and conditions, and which will be under the supervision of Mr. Bellemare, while the Prosecutor's office is being created.

This formula permits UNIIIC to continue to benefit from its advantages:

¶1. The Commission will continue to function under Chapter VII.

¶2. The Commission will continue to function under its own current budget, independent of the Tribunal's budget.

¶3. The Commission will continue to provide to the Lebanese authorities technical assistance (in investigating) the other attacks and assassinations." (End text)

COMMENT

¶12. (C) Keeping Bellemare focused on the need to deliver indictments as soon as possible is important. The

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Rizk/Sadr/Riachy framework would provide UNIIIC Chapter VII authorities and provide Bellemare with the tools he needs for evidence-gathering and prosecution. And, as long as Bellemare operates under UNIIIC funding, the Tribunal funding is preserved for future operations. Rizk's proposal seems to us a means of extending UNIIIC while also moving more aggressively to making the Special Tribunal operational. End comment.
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